



March 26, 2020

The Honorable Phil Murphy
Governor of New Jersey
225 West State Street
Trenton, NJ 08625

The Honorable Gurbir Grewal
Attorney General
Hughes Justice Complex
25 Market St
Trenton, NJ 08628

Re: Emergency Closure of the Immigration Courts at Newark and Elizabeth During The Coronavirus Pandemic

Dear Governor Murphy and Attorney General Grewal,

I am writing to you with extreme urgency, in my capacity as Executive Vice President of the National Association of Immigration Judges (NAIJ) to ask you to intervene to close both immigration courts in New Jersey located in Newark, N.J. and Elizabeth, N.J. We face challenging times during this unprecedented global pandemic. I thank you both for your leadership as Governor of New Jersey and New Jersey's Attorney General, respectively, to ensure that all are protected in our community.

The urgency of our request cannot be overstated. Our request is about protecting lives - not conducting business as usual. Closing the immigration courts immediately will ensure the safety, health and well being of all court personnel, their families and the greater community.

NAIJ, the American Federation of Government Employees (AFGE) Local 511 (the Immigration and Customs Enforcement (ICE) Professionals Union), and the American Immigration Lawyers Association (AILA) (collectively, "the Organizations") have asked that the Department of Justice (DOJ) and the Executive Office for Immigration Review (EOIR) close all immigration courts nationwide for the protection of all court personnel and the broader community. Please find attached our joint letters to EOIR.

Despite our efforts, and the clear directives of federal, state, and local public health officials, EOIR continues with operations at the Elizabeth Immigration Court housed in the Elizabeth Detention Facility, and has reopened the Newark Immigration Court for filings, placing the lives of all residents of New Jersey at risk, including court employees, attorneys, witnesses, and the non-citizens who appear before us. **NAIJ requests that you act immediately and issue a statement in support of closing both the Elizabeth and Newark Immigration Courts.** Closing these courts immediately will help to diminish further spread of the COVID-19 virus and lessen the impact on the limited State, city and county health resources.

NAIJ applauded the initial closing of the Newark Immigration Court. Yet shockingly we learned yesterday evening at 9:23 by a tweet, that EOIR was reopening the Newark Court for receipt of court filings. EOIR is requiring court personnel to travel to the court, receive filings, process mail and answer phone calls. These individuals risk contracting the virus, spreading the virus and then requiring the services of health care providers. Sadly NAIJ has learned of a Trial Attorney from the Newark Immigration Court who has a confirmed diagnosis of COVID-19 and that employees with United States Citizenship and Immigration Service (USCIS) who also work in the same building have confirmed cases of COVID-19.

EOIR has continued with full operations at the Elizabeth Detention Facility in spite of the fact that there has been confirmed exposure at the Elizabeth Detention Facility. On Tuesday March 24, 2020 after being advised of a confirmed case of COVID-19 of an Attorney who is, we understand, currently hospitalized, EOIR tweeted that the Elizabeth Court was closed. The Assistant Chief Immigration Judge reached out to the staff to advise them that they should close, and then, within minutes contacted the Court to advise that operations at the court would continue. Cleaning of the court premises was undertaken while all court personnel were on site!

Today, the Elizabeth Immigration Court is open and operations are proceeding. EOIR's incomprehensible decision to continue operations at these courts is placing all those involved and the greater community in harm's way. Continuing operations at these courts is not based on current public health guidance and scientific advice. Every link in the chain that brings individuals to the court, from the use of public transportation, to security lines, crowded elevators, cramped cubicle spaces of court staff, inadequate waiting room facilities in the courthouses, and inadequate disinfectant supplies and personal protective equipment at the courts, places lives at risk. It is irresponsible to continue operations at these courts.

NAIJ fully supports the need to pause operations to assist in slowing the spread of this virus and the rate of new infections in the community so as not to overwhelm our health services. We have repeatedly asked EOIR and DOJ to take into consideration State, City and County public health directives in their decision making. Despite our pleas, EOIR and DOJ have continued to take the position that Immigration court functions are exempt from State and City decrees that only essential business will be functioning with workers commuting to and from the job.

For detained individuals, NAIJ recognizes that liberty and due process interests are paramount, but we also recognize that we are in the throes of a historic, unprecedented health crisis. Keeping our courts open endangers all those involved in the process - their families, and the greater community. Recognizing the needs of the very vulnerable population that we serve, including detained individuals and unaccompanied juveniles, NAIJ has offered EOIR alternative solutions such as telework and telephonic bond hearings if necessary. We have asked EOIR to include these alternatives in their continuity of operations plans (COOP). Our partners in support of closing the courts, have offered alternatives to detention for this vulnerable population such as discretionary detention and increased consideration for parole.

To continue EOIR operations as business as usual is dangerous and places all that participate in the position of having to decide between keeping their jobs and supporting their families and risk self harm and harm to their loved ones. Moreover, the attorneys and witnesses are motivated to come to court in spite of the danger to their lives for fear of, in the alternative, having in absentia orders of removal issued against their clients. This is an impossible choice, unjust, not aligned with our American judicial principles and unbecoming of our Nation and State.

To be clear, all of the Immigration Judges and Court personnel at the courts referenced herein are under a mandatory directive by the State of New Jersey to Stay at Home to minimize the risk and spread of COVID-19, *while at the same time are being ordered by the Department of Justice to continue reporting to work*. Immigration Judges, Legal Assistants, Judicial Law Clerks, Interpreters, Security Staff, and a host of other office personnel who work at these courts are all placed at great risk and are profoundly affected by DOJ's failure to take responsible action based on the available scientific evidence.

NAIJ asks that you both, as Governor of the State of New Jersey and New Jersey's Attorney General, intervene immediately to call for the closure of all immigration courts, detained and non detained, in New Jersey to protect the State's residents who are callously being placed in harm's way.

I look forward to hearing from you and your office at your earliest convenience.

Sincerely,

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DISCLAIMER: The author is the Executive Vice President of the National Association of Immigration Judges. The views expressed here do not necessarily represent the official position of the United States Department of Justice, the Attorney General, or the Executive Office for Immigration Review. The views represent the author's personal opinions, which were formed after extensive consultation with the membership of NAIJ.